

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.493 OF 2007**

Mr.Jeevanlal Sohanlal Kothari (Jain) ...Applicant.
V/s.

1.Mr.Hemchand Govindaji Karani
2.The State of Maharashtra ...Respondents.

Shri V.K.Singh, adv. for the Applicant.
Shri U.V.Nikam, APP for the Respondent/State.

**CORAM: J.H.BHATIA, J.
DATE : 26th February, 2007.**

P.C.:

1. Heard Mr.V.K.Singh, the learned counsel for the applicant and the respondent no.1 in person. On a complaint lodged by respondent no.1, the present applicant was convicted for the offence punishable under Section 138 of the Negotiable Instruments Act and was sentenced to undergo S.I. for six months and to pay fine of Rs.5,000/- and also to pay compensation of Rs.2,50,000/-. In criminal appeal 603 of 2006, the learned Additional Sessions and the Special Judge at Kurla, Bombay admitted the appeal and directed the applicant to deposit Rs.1,25,000/- within 8 weeks. Subject to this execution of sentence was to be stayed. However, the applicant could not fulfil the condition of depositing the amount and on 8-2-2007 the applicant was taken in custody. By this application, the applicant

seeks modification in the order passed by the Sessions Judge, Bombay and seeks that the applicant may be released on his depositing Rs.10,000/- per month.

2. According to the applicant, presently his financial condition is not good. He had taken loan from respondent no.1 for business of timber and he will not be in a position to deposit the whole amount in the lump sum. Respondent no.1 also concedes that earlier business of the applicant was good but now for sometime, he is facing financial crunch. In such circumstances if the applicant is required to deposit the whole amount in a lump sum, it will practically amount to refusal of bail to him pending the appeal. The applicant offers to deposit Rs.15,000/- per month till the total amount of Rs.1,25,000 is deposited. It appears that he has already deposited some amount. Taking into consideration the circumstances noted above, the applicant be released on executing fresh bail bonds as per the order passed by the Sessions Court earlier subject to the condition that he shall deposit an amount of Rs.15,000/- per month till the complete amount of Rs.1,25,000/- is deposited as per the order passed by the Sessions Court on 4-8-2006.

3. First instalment shall be deposited within the next 2 days and thereafter, each instalment should be paid before 5th of each calendar month beginning from April, 2007.

(J.H.Bhatia, J.)